Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
2006 Biennial Regulatory Review of	)	WC Docket No. 06-157
Regulations Administered by the	)	
Wireline Competition Bureau	)	

REPLY COMMENTS OF VERIZON

The comments filed by Verizon[1] and the United States Telecom Association ("USTelecom") demonstrate that the communications industry today is intensely competitive and is characterized by rapid deployment of advanced broadband technologies and geography-agnostic facilities and services by multiple competing providers over a variety of technology platforms.[2] But the comments also make clear that outdated and anachronistic regulations that apply only to one group of providers – those that began life as local exchange carriers – jeopardize the development and introduction of next generation IP-enabled "all distance" services, and create complications and impose unnecessary costs on the design and deployment of the broadband infrastructure on which they are provided.[3]

The Commission has long recognized that competition is the best form of "regulation." As the Commission recently acknowledged in its *Title I Order*, "one of the Commission's most critical functions is to adapt regulation to changing technology and

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[1] The Verizon companies participating in this filing ("Verizon") are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

[2] Verizon Comments at 2-3, 6-23; USTelecom Comments at 1-2, 4-8.

[3] *See, e.g.,* Verizon Comments at 23-40; USTelecom Comments at 9-20; BellSouth Comments at 6-10.

competitive conditions to accomplish its mandates under the Act."[4] The Commission therefore should use this biennial review to bring its rules into alignment with what is already happening in the marketplace.

While the Commission already has taken significant steps to achieve a regulatory environment that promotes broadband deployment by eliminating the application of a number of unnecessary regulations to next-generation broadband networks and facilities, as well as certain of the advanced services provided over these new networks,[5] the legacy regulations addressed by Verizon, BellSouth, and USTelecom in their comments continue to undermine the Commission's "central communications policy objective" of ensuring the "widespread deployment of broadband."[6] The Commission should clean up the vestiges of monopoly era regulation that no longer make any sense in an era of advanced technologies and services.

First, the Commission should eliminate the carry-over equal access and nondiscrimination obligations that apply to only one among several competing providers, including the obligation to read lists of competing long distance providers, preserved by

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[4] *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*; Report and Order, 20 FCC Rcd 14853 ¶ 42 (2005) ("*Title I Order*").

[5] *Title I Order*; *Petition for Forbearance of the Verizon Telephone Companies Pursuant to 47 U.S.C. § 160(c)*, Memorandum Opinion and Order, 19 FCC Rcd 21496 (2004).

[6] *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities;* Notice of Proposed Rulemaking, 17 FCC Rcd 3019, ¶ 1 (2002) (footnote omitted). *See also* Written Statement of Honorable Kevin T. Martin, Chairman FCC Before the Committee on Commerce, Science and Transportation, U.S. Senate, September 12, 2006 (website: http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-267390A1.pdf) (broadband deployment is "highest priority"; Commission has "worked hard to create a regulatory environment that promotes broadband deployment.").

section 251(g) of the Act.[7] As Verizon explained, these regulations were designed more than two decades ago to prevent what were then the BOCs and GTE from favoring AT&T after the break-up of the Bell System, and to ensure that consumers knew they had a choice of long distance providers. In a world characterized by rapid deployment of advanced broadband technologies and geography-agnostic facilities and services by multiple competing providers over a variety of technology platforms, these regulations are no longer necessary in the public interest.

To the contrary, as Verizon explained, these regulations are affirmatively harmful to customers. They complicate the design and deployment of networks based on new technologies, and impose inefficiencies on the BOCs not faced by other competitors. For example, as the Commission found in freeing broadband internet access services from the *Computer Inquiry* requirements, "vendors do not create new technologies with [legacy regulations applicable only to BOCs] in mind."[8] As a result, Verizon is forced to consider whether it should jury-rig equipment and networks to meet these outdated requirements. This could limit Verizon's ability to offer customers full use of the capabilities and efficiencies of IP-based technologies for some services. Regulations that lead to such a result make no sense. Depriving customers of the benefits of broadband technology and increasing the costs for services undermine the Commission's goals.

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[7] The "equal access and nondiscriminatory interconnection restrictions" carried over by section 251(g) of the Act originally came from the Modification of Final Judgment that broke up the Bell System in 1984, and from a similar decree to which GTE was subject. *See United States v. AT&T*, 552 F. Supp. 131, 227 (section II (A)), 232-234 (Appendix B) (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983); *United States v. GTE Corp.*, 603 F. Supp. 730, 743-746 (D.D.C. 1984).

[8] *Title I Order* ¶ 65.

Second, the Commission should expressly decline to *re-regulate* the long distance and all-distance services offered by former Bell operating companies if they choose to offer these services in an efficient integrated basis now that the section 272 separate affiliate requirements have sunset under the schedule prescribed by Congress.[9] These companies' long distance services are not subject to so-called "dominant" carrier regulations today, such as tariffing or price cap requirements. And as is clear from the comments, there is no reasonable argument to be made in today's market environment that any provider of long distance or any distances services can be characterized as dominant. Indeed, in today's market, with the deployment of new technologies and consumer demand for the benefits they receive from any distance services and bundled offerings, the concept of separate local and long distance services is rapidly becoming an anachronism. As the Commission has explained, "in a competitive market, market forces are generally sufficient to ensure the lawfulness of rate levels, rate structures, and terms and conditions of service set by carriers who lack market power."[10] As a result, it would make no sense, and would be affirmatively anticompetitive, to force only one among many competing providers to choose between rolling out new services and facilities in

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[9] These include tariffing requirements and price cap rules. 47 C.F.R. §§ 61.28, 61.31 – 61.38, 61.41 – 61.49.

[10] *Implementation of Sections 3(n) and 332 of the Communications Act*, Second Report and Order, 9 FCC Rcd 1411, ¶ 173 (1994); *Policy and Rules Concerning the Interstate, Interexchange Marketplace,* 11 FCC Rcd 20730 ¶ 42 (1996) ("*Interexchange Policy Order*") ("Just as we believe that competition is sufficient to ensure that nondominant interexchange carriers' charges for interstate, domestic, interexchange services are just and reasonable, and not unreasonably discriminatory, and to protect consumers, we believe that competitive forces will ensure that nondominant carriers' non-price terms and conditions are reasonable."); *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities*, First Report and Order, 85 F.C.C.2d 1, ¶ 88 (1980) ("firms lacking market power simply cannot rationally price their services in ways which, or impose terms and conditions which, would contravene Section 201(b) and 202(a) of the Act").

the most efficient manner, or being subject to increased regulations designed for a different era and marketplace.

For the same reason, the Commission should eliminate the separation requirements that apply to the provision of long distance and all-distance service by independent LECs, but not other competitors.[11] As Verizon explained, these regulations greatly complicate the design and planning of today's advanced services and facilities. Moreover, they prevent independent LECs from determining the most efficient structure for their long distance operations. Such inefficiencies may prevent carriers from taking advantage of scope economies that could be used to produce different services,[12] or may inhibit carriers from providing new services.[13] In all events, these rules no longer serve the public interest.

Third, the Commission should eliminate its *Computer III* requirements, including CEI and ONA requirements.[14] Although the Commission eliminated the application of these rules to wireline broadband Internet access services and Verizon's other broadband transmission services, they remain in force for other services the BOCs provide today,

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[11] 47 C.F.R.§ 64.1901-64.1903.

[12] *See Amendment of Section 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry)*, Memorandum Opinion and Order on Reconsideration 2 FCC Rcd 3035, ¶ 25 (1987).

[13] *See Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards*, Report and Order, 6 FCC Rcd 7571, ¶ 8 (1991) (*"Computer III"*).

[14] *See Filing and Review of Open Network Architecture* Plans, Memorandum Opinion and Order, 6 FCC Rcd 7646 (1991); *Filing and Review of Open Network Architecture Plans*, Memorandum Opinion and Order on Reconsideration, 8 FCC Rcd 97 (1993); *Filing and Review of Open Network Architecture Plans*, Memorandum Opinion and Order on Reconsideration, 8 FCC Rcd 2606 (1993).

and every new service must be evaluated to determine if it is subject to these rules. And even if a new service is not subject to the rules, Verizon and other BOCs are nevertheless subject to ongoing extensive reporting and posting requirements.[15] The Commission should eliminate these requirements altogether. The Commission's CEI and ONA rules do not apply to other local or long distance providers today, including the "all distance" offerings of cable and over-the-top VoIP providers. As USTelecom explained, these rules are not necessary to protect the competitive marketplace. Indeed, they are anticompetitive – they give BOCs' competitors an unfair competitive advantage by revealing how the BOC intends to provide its own competitive, unregulated service.[16] Subjecting only the BOCs' services to these burdensome requirements stifles innovation and investment, skews competition, and harms consumers by slowing the development of new services and increasing the costs of offering them.[17]

Fourth, the Commission should reform other pricing regulations that impede competition and innovation. In today's robustly competitive marketplace, market forces will ensure that each provider's rates, terms, and conditions are reasonable and satisfy customer demand. The Commission therefore should begin now to remove remaining mandatory tariff obligations that apply only to one among many competing providers,[18] and should permit carriers to file base-line tariffs from which commercial agreements can be negotiated, or to post price lists. For services sold to large business and government customers, the Commission should also eliminate the requirement that non-dominant

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[15] *See* USTelecom Comments at 16-20.

[16] *Id.* at 17-20.

[17] *See Title I Order* ¶ 65.

[18] 47 C.F.R. §§ 61.41 – 61.49.

carriers post rates, terms, and conditions for interstate, interexchange and international services.[19] The Commission has recognized that negotiated, commercial solutions are superior to regulatory prescriptions, finding that "negotiated agreements between carriers are more consistent with the pro-competitive process and policies reflected in the 1996 Act."[20]

The Commission also should reform its TELRIC pricing regime for UNEs to eliminate the requirement that costs be based on a hypothetical network with efficiencies that no real-world carrier can match.[21] As Verizon explained,[22] the artificially low UNE rates produced by TELRIC clearly are not "necessary in the public interest."[23] Moreover, TELRIC affirmatively discourages new investment by ILECs and other facilities-based providers, on the one hand, and eliminates incentives for CLECs to invest in their own networks, on the other.[24] The Commission itself recognized this in the *Triennial Review Order*, stating that "unbundling requirements tend to undermine the incentives of both incumbent LECs and new entrants to invest in new facilities and deploy new technology."[25] Accordingly, the TELRIC rules should be repealed or modified.

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[19] *See Interexchange Policy Order.*

[20] *Developing A Unified Intercarrier Compensation Regime*, Declaratory Ruling and Report and Order, 20 FCC Rcd 4855, ¶ 14 (2005).

[21] 47 C.F.R. § 51.505.

[22] Verizon Comments at 37-38.

[23] 47 U.S.C. § 161(b).

[24] *See* Comments of the Verizon Telephone Companies, WC Docket No. 03-173, at 8-18 (filed Dec. 16, 2003).

[25] *Review of Section 251 Unbundling Obligation of Incumbent Local Exchange Carriers*, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, CC Docket NO. 01 – 338, FCC 03-36 ¶ 3 (rel. Aug 21, 2003) ("*Triennial Review Order*").

Finally, BellSouth and USTelecom propose a number of additional regulations that should be eliminated.[26] The accounting, reporting, and network disclosure requirements that USTelecom and BellSouth raise, like the rules discussed above, were also adopted a decade or more ago. But as discussed above and in the comments, the communications marketplace has changed dramatically from what it was a decade ago when the 1996 Act was passed and, indeed, from what it was two years ago – the last time the Commission conducted a review of regulations required by that Act. As BellSouth's and USTelecom's comments make clear, the accounting, reporting, and network disclosure rules that they propose to eliminate serve no useful purpose. Instead they impose unnecessary burdens that divert resources from providing the services and

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[26] BellSouth asks the Commission to repeal or modify certain burdensome and unnecessary aspects of its Part 51 network change disclosure rules as administered by the Bureau. *See* BellSouth Comments at 1-7.

USTelecom requests elimination of the rule governing valuations of services and assets transferred between regulated and non-regulated affiliates (47 C.F.R. § 32.27), and the Cost Allocation Manual and independent audit requirements, to the extent they relate to the affiliate transaction rule (47 C.F.R. §§ 64.903, 64.904, and 32.9000), USTelecom Comments at 10-11; modification of 47 C.F.R. § 32.26 by establishing a materiality threshold consistent with Generally Accepted Accounting Practices (GAAP), US Telecom Comments at 11-12; elimination of the rate of return filing requirements in Rule 65.600(d)(1) and (d)(2), as well as the associated reporting requirements in Part 43, for carriers that are under price caps, USTelecom Comments at 12; elimination of the cash working capital calculation for price cap carriers as defined in 47 C.F.R. § 65.820(d), *id.*; elimination of additional Part 43 reporting requirements that no longer serve legitimate regulatory objectives, USTelecom Comments at 13-14; and revision of the Part 42 recordkeeping rules to take into account modern electronic document management techniques, USTelecom Comments at 14-16.

The Navajo Nation Telecommunications Regulatory Commission also filed comments in the biennial review docket. The Navajo Nation comments do not propose the elimination of any regulations, but instead request that the Commission adopt an extensive list of new requirements affecting numerous wireline and wireless service providers. Those proposals are not appropriate in the context of the biennial review, where the Commission is directed to "repeal or modify any regulation it determines to be no longer necessary in the public interest." 47 U.S.C. § 161(b). Accordingly, the Commission should not consider them here.

technologies customers demand and delay implementation of planned network changes. These rules also should be eliminated.

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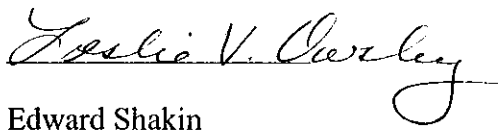
For all the foregoing reasons, the Commission should eliminate the specified rules and requirements, which are "no longer necessary in the public interest."

Respectfully submitted,



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